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**Report of the Bills Committee on Inland Revenue (Amendment)  
(Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022 (“the Bills Committee”).

**Background**

2. Asset and wealth management is one of the key pillars of Hong Kong’s financial services industry. Family offices are private wealth management firms set up by ultra-high-net-worth individuals (“UHNWIs”)<sup>1</sup> to generally oversee the day-to-day administration of their family’s assets. According to the Administration, due to the substantial growth of UHNWIs in Asia, family office business has become an important growth driver of the region’s private wealth management business. The industry estimated that there were over 15 000 UHNWIs in Hong Kong in the first half of 2022, the highest amongst global cities. As far as Hong Kong is concerned, the size of private banking and private wealth management business attributed to family offices and private trusts clients reached HK\$1,784 billion in 2021<sup>2</sup>, suggesting huge business opportunities for the asset and wealth management industry.

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<sup>1</sup> Ultra-high-net-worth individuals are usually defined as people with a net worth of at least US\$30 million in investible assets.

<sup>2</sup> Paragraph 2 of the Legislative Council Brief (File Ref.: ASST/3/1/8/2C) issued on 7 December 2022.

3. While the structure of family offices may vary, typically, a family would establish an investment holding vehicle (i.e. a family-owned investment holding vehicle (“FIHV”)) to hold the assets for the family and a separate entity (i.e. the single family office (“SFO”)) to manage the assets held by the FIHV. Investment gains thus typically arise at the FIHV. An FIHV would also establish special purpose entities (i.e. family-owned special purpose entities (“FSPEs”)) for holding and administering the FIHV’s assets. When family offices decide where to set up their operations and locate their investments, tax treatment is often a key factor influencing their decisions. While at present all funds operating in Hong Kong can enjoy profits tax exemption on certain transactions subject to meeting specified conditions under the unified tax exemption regime for funds (“UFR”),<sup>3</sup> FIHVs may not be able to enjoy the UFR tax exemption because –

- (a) not every FIHV can meet the definition of “fund” in section 20AM of the Inland Revenue Ordinance (Cap. 112) (“IRO”); and
- (b) the anti-round tripping provisions in sections 20AX and 20AY of IRO would constrain the extent of a resident person’s beneficial interest in a fund.<sup>4</sup>

4. The Financial Secretary announced in the 2022-2023 Budget that the Government would provide tax concessions for eligible FIHVs managed by SFOs, with a view to enhancing Hong Kong’s attractiveness as a hub for family offices, deepening Hong Kong’s pool of liquidity, and creating more business opportunities for the financial sector and other professional sectors.

### **Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022**

5. The Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022 (“the Bill”) was published in the Gazette on 9 December 2022 and received its First Reading at the Legislative Council (“LegCo”) meeting of 14 December 2022. The Bill seeks to amend IRO to give profits tax concessions to eligible FIHVs managed by SFOs in Hong Kong and related entities, and to provide for related matters. The main provisions of the Bill are summarized as follows:

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<sup>3</sup> Sections 20AM to 20AY of the Inland Revenue Ordinance (Cap. 112) (“IRO”).

<sup>4</sup> For example, if a resident person who, either alone or jointly with the person’s associates, has a beneficial interest of 30% or more in a tax-exempt fund (or any percentage if the fund is the resident person’s associate), the assessable profits of the fund that would have been chargeable to tax but for the tax exemption will be deemed to be the assessable profits of the resident person.

- (a) The tax concession regime proposed by the Bill is set out in the new Part 6E of IRO. The tax treatment of FIHVs and FSPEs is set out in the proposed new Schedule 16E to IRO. Under section 9 of Schedule 16E, profits tax at the rate specified in section 24(2) of that Schedule, which is proposed to be 0% for a year of assessment commencing on or after 1 April 2022, would be charged on the FIHV's assessable profits for the basis period for a year of assessment earned from the transactions in the assets specified under Schedule 16C to IRO ("qualifying transactions"), and the transactions incidental to the carrying out of qualifying transactions subject to a 5% threshold<sup>5</sup> ("incidental transactions"), subject to a number of conditions including: the central management and control of the FIHV must be exercised in Hong Kong (section 9(4)(a) of the proposed new Schedule 16E); the qualifying transactions of the FIHV must be carried out in Hong Kong by, or arranged in Hong Kong by, an eligible SFO ("ESF Office") (section 9(4)(b) of the proposed new Schedule 16E); and the ESF Office of the family to which the FIHV is related must meet the minimum asset threshold requirement (sections 10(1)(a) and 11 of the proposed new Schedule 16E) and the substantial activities requirement (sections 10(1)(b), 10(1)(c) and 10(2) of the proposed new Schedule 16E);
- (b) under sections 16(2) and (3) of the proposed new Schedule 16E to IRO, profits tax at the rate specified in section 25(2) of that Schedule, which is proposed to be 0% for a year of assessment commencing on or after 1 April 2022, would be charged on the FSPE's assessable profits for the basis period for a year of assessment earned from certain specified transactions;
- (c) Under the proposed new section 40AW(1) of IRO, the Secretary for Financial Services and the Treasury would be empowered to amend sections 10(1)(b)(ii), 10(1)(c)(ii), 11(2), 11(4), 11(6), 24(2) and 25(2) of the proposed new Schedule 16E (relating to the number of qualified employees and the total amount of operating expenditure specified in the substantial activities requirement, the amount of net asset value ("NAV") of the FIHV, and the profits tax rates applicable to FIHVs and FSPEs) by notice published in the Gazette. Such notices would be subsidiary legislation subject to LegCo's scrutiny pursuant to the negative vetting procedure; and

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<sup>5</sup> The FIHV's trading receipts from incidental transactions must not exceed 5% of the total of the FIHV's trading receipts from qualifying transactions and incidental transactions in the basis period for the year of assessment.

- (d) Under sections 28 and 29 of the proposed new Schedule 16E, a responsible person<sup>6</sup> for an FIHV and the ESF Office would be required to keep sufficient records to enable the identity and particulars of each beneficial owner of the FIHV to be readily ascertainable. Failure to comply with the record keeping requirements would be an offence punishable by a fine at level 3 (i.e. \$10,000) (the proposed new sections 80(2Y) and 80(2Z)).

6. Details of the main provisions of the Bill are set out in **Appendix 1**. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

### **The Bills Committee**

7. At the House Committee meeting on 6 January 2023, Members agreed to form a Bills Committee to study the Bill. Hon Jeffrey LAM Kin-fung was elected Chairman of the Bills Committee. The membership list of the Bills Committee is in **Appendix 2**. The Bills Committee has held three meetings with the Administration, including one meeting to receive views from deputations. The Bills Committee has also received a total of seven written submissions from deputations. A list of organizations which have appeared before the Bills Committee and/or given views to the Bills Committee is in **Appendix 3**.

### **Deliberations of the Bills Committee**

8. Members of the Bills Committee in general support the Bill. The main subjects deliberated by the Bills Committee are set out below:

- (a) Requirements on structure and ownership of FIVs (paragraphs 9-19);
- (b) Requirements on management of FIVs (paragraphs 20-23);
- (c) Requirements on asset level for FIVs (paragraphs 24-25);
- (d) Requirements on substantial activities for FIVs (paragraphs 26-28);
- (e) Qualifying transactions and incidental transactions of FIVs and related FSPEs (paragraphs 29-34); and

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<sup>6</sup> Responsible person (a) in relation to an entity that is a corporation, means the corporation; and (b) in relation to any other entity, means a person who is responsible for the management of the entity (section 28(7) of the proposed new Schedule 16E).

- (f) Competitiveness of the proposed tax concessions and complementary measures to attract family offices to Hong Kong (paragraphs 35-41).

Requirements on structure and ownership of family-owned investment holding vehicles

*Charitable institutions or trusts*

9. FIHV is proposed in section 5 of the proposed new Schedule 16E to IRO to mean an entity (whether established or created in or outside Hong Kong) in which one or more than one member of a family has at least 95%, in aggregate, of the beneficial interest (whether direct or indirect) at all times during the basis period for a year of assessment (“95% beneficial interest threshold”), and is not a business undertaking for general commercial or industry purposes as mentioned in section 20AM(6) of IRO.

10. As it is common for families to include charitable institutions or trusts (“charitable entities”) as beneficiaries of their assets, the Bills Committee is concerned that if the charitable entities have more than 5% of the beneficial interest (whether direct or indirect) in an FIHV, the FIHV may not enjoy the proposed profits tax exemption in respect of qualifying transactions and incidental transactions because it fails to meet the 95% beneficial interest threshold. Families may thus be discouraged from participating in charity. Members opine that the Administration should consider allowing charitable entities covered under section 88 of IRO to have a part of the 95% beneficial interest in the FIHV.<sup>7</sup> The deputations have also suggested that the Administration consider including charitable entities into the scope of a specified trust related to a family under section 8 of the proposed new Schedule 16E, such that charitable entities are regarded as family member and the FIHV is taken to have met the 95% beneficial interest threshold and thus eligible for tax concessions.

11. The Administration has explained that during the industry consultation on the legislative proposal conducted from March to April 2022, it was initially proposed that all the beneficial interests of the FIHV must be wholly owned by one or more members of the same family directly or indirectly. Having regard to the views expressed by the industry during the consultation, and making reference to the definition of an investment entity under the Global Anti-Base Erosion Rules promulgated by the Organisation for Economic Co-operation and Development (“OECD”) (i.e. an entity at least 95% owned by an investment fund

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<sup>7</sup> Under section 88 of IRO, any charitable institution or trust of a public character will be exempt from profits tax if certain conditions in respect of a trade or business carried on are met.

or a real estate investment vehicle or through a chain of such entities for asset holding purposes), the 95% beneficial interest threshold is proposed under the Bill.

12. Members of the Bills Committee in general take the view that the Bill might not be able to cater for families' culture of philanthropy as it only allows 5% of the beneficial interest in an FIHV to be held by charitable entities. Having considered the comments, the Administration will propose amendments to the effect that a charitable institution or trust of a public character that is exempt from tax under section 88 of IRO may have up to 25% of beneficial interest (whether direct or indirect) in an ESF Office and/or an FIHV. This is subject to conditions including: (i) at least 75%, in aggregate, of the beneficial interest of the ESF Office and/or FIHV must be held by family members; and (ii) the percentage of beneficial interest that an unrelated person<sup>8</sup> has in the ESF Office and/or FIHV, or if there is more than one unrelated person, the total percentage of such beneficial interest, does not exceed 5%. This will cater for families' philanthropic purposes.

#### *Specified trusts*

13. Under certain trust structures, a family member will only be able to benefit from the trust estate if the trustee exercises a discretionary power under the trust instrument in the favour of the family member, or if the conditions (e.g. upon the family member reaching a certain age) specified under the trust instrument are met. Section 8 of the proposed new Schedule 16E under the Bill provides that, if the aggregate percentage in value of the relevant estate of a "specified trust" is at least 95%, members of the family concerned who are "qualified beneficiaries" of the trust, and those other family members who are entitled to benefit from the trust estate, are taken to have at least 95%, in aggregate, of the beneficial interest (whether direct or indirect) in the "specified trust". The Bills Committee has noted the deputations' comments that section 8 may not be able to cater for holding structures involving multiple "specified trusts" or multiple layers of "specified trusts".

14. The Administration has responded that when considering the above comments, the Administration acknowledges that it would not be practicable to exhaustively set out all possible holding structures involving "specified trusts" which can be regarded as satisfying the 95% beneficial interest threshold. The Administration will therefore propose amendments to add provisions under

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<sup>8</sup> "Unrelated person" in relation to a particular family means: (a) an entity in which no member of the family has a beneficial interest (whether direct or indirect); or (b) a natural person who is not a member of the family. An "unrelated person" does not include a charitable entity.

section 8 of the proposed new Schedule 16E to provide flexibility for considering holding structures involving “specified trusts”. Specifically, for holding structures involving one or more than one “specified trust” and it is not possible to rely on the deeming provisions specified under section 8, a family member(s) will be taken to have fulfilled the 95% beneficial interest threshold for the ESF Office/FIHV concerned provided that the Commissioner of Inland Revenue (“the Commissioner”) is satisfied, after having regard to all the circumstances of the case particularly the relationship between the entities in the structure, that it is highly probable that one or more than one family member will have at least 95%, in aggregate, of the beneficial interest in the ESF Office/FIHV.

#### *Family and member of family*

15. In respect of the meaning of family and member of family, the Bills Committee has enquired how family and member of family are defined, in particular, whether family member includes a child born out of wedlock and an adopted child. The Administration has pointed out that the scope of family and member of family is provided for under section 4 of the proposed new Schedule 16E. “Child” is defined under section 4(4) to include a child of a natural person, or of a spouse (including a deceased spouse) or former spouse of the natural person, whether or not the child was born in wedlock, and an adopted child or step child.

16. The Bills Committee has noted that the term “adopted” in section 4(4) of the proposed new Schedule 16E is not defined, while sections 26I(1) and 27(3) of IRO provide that “adopted” means adopted in any manner recognized by the laws of Hong Kong. Members have asked whether the Administration would consider specifying the meaning of “adopted” in the relevant provisions of the Bill for the sake of clarity and consistency.

17. The Administration has responded that reference can be made to the existing sections 14O(1) and 20AN(6) on the ship leasing regime and UFR respectively in IRO, under which “adopted” in the term “relative” is also not defined. The Administration has explained that the term “adopted” in section 4 of the proposed new Schedule 16E is to be construed in accordance with its ordinary meaning, and adopted in any manner, whether recognized by the laws of Hong Kong or overseas, will fall within the ordinary meaning of “adopted”.

#### *ESF Office*

18. The Bills Committee has noted that as provided under the Bill, only FIHVs managed by ESF Offices can enjoy the proposed tax concessions. Members have pointed out that it is common for different families to establish multi-family offices (“MFOs”) to manage their assets, and have enquired why the Bill does not propose to provide tax concessions for eligible FIHVs managed by MFOs in Hong

Kong. Member have noted the views of some deputations that the Administration should consider extending the proposed tax concessions to eligible FIHVs managed by MFOs in Hong Kong.

19. The Administration has explained that FIHVs managed by MFOs are not covered under the Bill because MFOs are generally independent service providers not owned by any single family. MFOs may also engage in the provision of investment management services for FIHV(s) owned by different families as well as other investment entities, and FIHV(s) of a family may also be managed by different MFOs. Given that the proposed tax concession regime allows: the combined assessment of the amount of specified NAV of multiple FIHVs managed by the same ESF Office in Hong Kong when calculating the minimum asset threshold (i.e. HK\$240 million), and outsourcing of the FIHV's core income generating activities ("CIGAs") to the ESF Office, the monitoring of the assets under management ("AUM") and the CIGAs outsourced to MFOs would be difficult. The latter requirement concerning outsourcing is subject to the scrutiny of the Forum on Harmful Tax Practices of OECD.

#### Requirements on management of family-owned investment holding vehicles

20. To enjoy the proposed tax concessions, the Bill provides that an FIHV must meet the following management requirements:

- (a) at all times during the basis period for a year of assessment, the central management and control of the FIHV must be exercised in Hong Kong (section 9(4)(a) of the proposed new Schedule 16E) ("requirement of central management and control ("CMC requirement")"); and
- (b) the qualifying transactions of the FIHV must be carried out in Hong Kong by or through, or arranged in Hong Kong by, an ESF Office<sup>9</sup> of the family that manages the FIHV (section 9(4)(b) of the proposed new Schedule 16E).

21. The Bills Committee is concerned how the Inland Revenue Department ("IRD") would enforce the CMC requirement in respect of family offices and FIHVs. In this connection, members have also noted the views of a number of deputations that the CMC requirement is not necessary as it would increase uncertainty of the proposed tax concessions and is inconducive to attracting family offices to set up a presence in Hong Kong. The Bills Committee has urged the Government to consider removing the CMC requirement.

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<sup>9</sup> ESF Offices are also required to meet the requirement of central management and control (section 2 of the proposed new Schedule 16E).

22. The Administration has pointed out that the CMC requirement has been in existence in other preferential tax regimes in Hong Kong (including UFR, and those for corporate treasury centres, aircraft leasing and ship leasing). Having regard to the comments of the industry and the need to avoid the proposed tax concession regime from being regarded as de facto ring fenced, the Administration will propose amendments to replace the CMC requirement with provisions that ESF Offices and FIHVs are required to be normally managed or controlled in Hong Kong (“NMC requirement”).

23. The Administration has explained that the concept of the NMC requirement has been adopted as a test of Hong Kong tax residence for foreign-established entities under a number of comprehensive avoidance of double taxation agreements entered into by Hong Kong with other jurisdictions. The NMC requirement will provide more flexibility for families to exercise either the management or control of their ESF Offices/FIHVs in Hong Kong having regard to their operations. It will facilitate more FIHVs (including those established outside Hong Kong) fulfilling the conditions specified under the Bill to enjoy the profits tax exemption.

#### Requirements on asset level for family-owned investment holding vehicles

24. The Bill provides that the aggregate of the amount of NAV of the assets specified under Schedule 16C to IRO managed by the ESF Office for the FIHV (or multiple FIHVs) must be not less than HK\$240 million (sections 10(1)(a) and 11 of the proposed new Schedule 16E) (“the minimum asset threshold requirement”). The Bills Committee is concerned whether the proposed minimum asset threshold is too high, rendering some FIHVs ineligible for the proposed tax concessions and thus discouraging family offices from coming to Hong Kong. Members have enquired about the factors that IRD may consider in determining the NAV of an FIHV. Furthermore, as quite a number of family offices or FIHVs that have already been set up do not confine their investment in assets specified under Schedule 16C, members have enquired about the reasons for not including all the assets of an FIHV into the minimum asset threshold in order to attract more family offices to relocate to Hong Kong.

25. The Administration has explained that the legislative proposal seeks to provide profits tax concession in respect of FIHV’s profits arising from transactions in assets specified under Schedule 16C to IRO. The purpose of setting the minimum asset threshold requirement is to attract UHNWIs to establish family offices and FIHVs in Hong Kong, and it is set with reference to the market’s general definition of UHNWIs (i.e. people with a net worth of at least US\$30 million in investible assets). The industry estimates that the average value of AUM of family offices has reached USD 2.2 billion. According to the China Family Office Report 2022 published by the Financial Services

Development Council, the average value of AUM of family offices stood at RMB29.7 billion. ESF Offices could possibly meet the minimum asset threshold of HK\$240 million under the Bill. In determining whether the minimum asset threshold is met, IRD would take into account the total NAV of the specified assets of all FIHVs managed by the ESF Office, as well as the levels of such total NAV in the previous three years of assessment. Upon passage of the Bill, IRD would issue Departmental Interpretation and Practice Notes setting out the implementation details.

Requirements on substantial activities for family-owned investment holding vehicles

26. To qualify for the proposed tax concessions, an FIHV must also meet the following conditions during the basis period for the year of assessment: (a) the average number of full-time qualified employees in Hong Kong who carry out any investment activities in Hong Kong is adequate in the opinion of the Commissioner and in any event not less than two; and (b) the total amount of operating expenditure incurred in Hong Kong for carrying out investment activities is adequate in the Commissioner's opinion and in any event not less than HK\$2 million (sections 10(1)(b), 10(1)(c) and 10(2) of the proposed new Schedule 16E) (collectively "substantial activities requirement").

27. The Bills Committee has enquired about the reasons for setting the substantial activities requirement, and why the condition of being "adequate in the opinion of the Commissioner" has to be added when it is already stipulated that the average number of qualified employees is "not less than two" and the total amount of operating expenditure is "not less than HK\$2 million".

28. The Administration has explained that the substantial activities requirement is imposed in compliance with the latest international tax standards, under which entities benefitting from the proposed tax concession regime in a jurisdiction must have carried out their CIGAs in that jurisdiction. As the size of each FIHV varies, adding the condition of being "adequate in the opinion of the Commissioner" seeks to ensure that the number of qualified full-time employees employed and the amount of operating expenditure incurred by the FIHV, or by the ESF Office on behalf of the FIHV if the CIGAs are outsourced, must be commensurate with the level of the CIGAs carried out in Hong Kong. In determining whether the threshold requirements are met, the Commissioner will consider whether the actual number of full-time employees and amount of operating expenditure could adequately and reasonably demonstrate the fulfilment of the substantial activities requirement having regard the facts and circumstances of individual cases, including investment strategy of the FIHV, types of assets held by the FIHV, the number of FIHVs that the ESF Office serves, details of the employees employed in Hong Kong, amount and types of the

operating expenditure incurred in Hong Kong, etc. Upon passage of the Bill, IRD would issue Departmental Interpretation and Practice Notes setting out the implementation details.

Qualifying transactions and incidental transactions of family-owned investment holding vehicles and related family-owned special purpose entities

*Classes of assets covered by Schedule 16C*

29. Under the proposed tax concession regime, an FIHV and FSPE may enjoy profits tax concession in respect of: (a) qualifying transactions; and (b) incidental transactions, subject to a 5% threshold. “Qualifying transactions” refer to transactions in assets under Schedule 16C to IRO which include transactions in securities, futures contracts and foreign exchange contracts, certificates of deposit and derivative products, etc.

30. The Bills Committee has noted the views of a number of deputations that the classes of assets covered by Schedule 16C are too narrow which do not include investment incomes (e.g. interests and dividends), investment products (e.g. overseas immovable properties and artwork) and emerging investment products (e.g. virtual assets (“VAs”) and assets related to Environmental, Social and Governance (“ESG”)) that are generally involved in FIGHVs and FSPEs. Members have asked whether the Administration will consider expanding the scope of Schedule 16C to cover more classes of assets, and whether it would consider extending the coverage of the proposed tax concessions to include transactions in assets in the Mainland, specifically the Guangdong-Hong Kong-Macao Greater Bay Area (“Greater Bay Area”), thereby enhancing the attractiveness of Hong Kong for overseas and Mainland family offices.

31. The Administration has explained that if assets related to ESG or in the Mainland (including the Greater Bay Area) are covered by the classes of assets specified in Schedule 16C to IRO, relevant transactions fulfilling the conditions specified under the Bill will be exempted from payment of profits tax. For VAs and immovable properties outside Hong Kong, if for example, an FIHV invests in these assets through transactions in crypto asset exchange-traded funds or real estate investment trusts covered by Schedule 16C, relevant transactions fulfilling the conditions specified under the Bill will also be exempted from payment of profits tax. In addition, classes of assets specified in Schedule 16C include shares, stocks, debentures, loan stocks, funds, bonds or notes, etc., of a private company. If a private company holds VAs or immovable properties outside Hong Kong and an FIHV invests in the company, relevant transactions fulfilling the conditions specified under the Bill will similarly be exempted from payment of profits tax.

32. The Administration has stressed that the eligibility conditions under the proposed tax concessions for FIHVs are consistent with those under the existing related tax concession regimes (e.g. UFR). In line with the existing arrangement under UFR, the proposed tax concessions only cover classes of assets specified in Schedule 16C. The Administration has noted the views of the industry that the classes of assets covered by the proposed tax concessions should be expanded, and will continue to maintain communication with the industry. As announced in the 2023-2024 Budget, the Government would review the existing tax concessionary measures including UFR and those under the Bill. The Administration would review holistically the impact of adjusting Schedule 16C on the current tax system to ensure consistency in various preferential tax regimes. The relevant Panel(s) of the LegCo will be consulted on the relevant proposal, if any, in future.

*Transactions in private companies by FIHVs and FSPEs*

33. The Bills Committee has noted the deputations' question on whether an FIHV/FSPE's certain transactions in a private company failing to meet the relevant requirements would render the FIHV/FSPE's other qualifying transactions ineligible for the profits tax exemption.

34. The Administration has advised that pursuant to sections 9 and 16 respectively of the proposed new Schedule 16E under the Bill, FIHVs and FSPEs fulfilling relevant requirements (including the provisions concerning the immovable property, holding period, control and short-term assets tests ("the tests") under sections 12, 13, 17 and 18 of the proposed new Schedule 16E) will enjoy profits tax exemption for assessable profits arising from qualifying transactions in (among other assets provided for in Schedule 16C to the IRO) shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a private company. To clarify that the FIHV/FSPE's qualifying transactions will not be so affected by the non-qualifying transactions, and to provide certainty, the Administration will propose drafting amendments to the effect that if any transaction in a particular private company fails to pass the tests, the tax concessions will not be applicable to such non-qualifying transaction(s), while other qualifying transactions of the FIHV/FSPE will not be affected.

Competitiveness of the proposed tax concessions and complementary measures to attract family offices to Hong Kong

35. The Bills Committee has pointed out that Singapore introduced tax concessions for FIHVs years ago and has already attracted a considerable number of family offices to set up a presence there. Members have enquired about the comparison between the proposed tax concessions in Hong Kong and the relevant regime in Singapore.

36. At the request of the Bills Committee, the Administration has provided a comparison between tax concessions proposed under the Bill and relevant tax arrangements of Singapore (**Appendix 4**). As explained by the Administration, the tax concessions proposed under the Bill compare favourably with the relevant arrangements of Singapore in terms of advance approval of tax concessions, AUM, local investment requirement and substantial activities requirement, etc. The Administration has stressed that the National 14th Five-Year Plan supports Hong Kong to strengthen its position as an international asset management centre. Hong Kong has a comprehensive financial services platform and a liquid capital market connected to the Mainland. In 2021, Hong Kong was Asia's largest cross-border financial centre with US\$2.3 trillion wealth. As at end 2022, the number of listed companies in Hong Kong stood at around 2 600 with a market capitalization of over HK\$35.6 trillion. Hong Kong's unique advantages in bridging the Mainland and global markets coupled with the diversified investment choices possess considerable attractiveness in promoting family offices to establish operations in the city.

37. The Bills Committee has stressed that apart from providing tax concessions for family offices, the Administration should roll out more complementary measures to attract family offices to Hong Kong in order to enhance Hong Kong's competitiveness. Members have called on Invest Hong Kong ("InvestHK") to provide one-stop support services for family offices, organize more local and overseas promotional activities (such as organizing exchange sessions and inviting family offices that have successfully set up a presence to share their experience so as to achieve better publicity effect), and set up key performance indicators in respect of attracting more family offices to Hong Kong.

38. The Administration has advised that to promote Hong Kong as a global major family office hub, the FamilyOfficeHK team ("the dedicated team") set up by InvestHK meets with and provides customized assistance to family offices and UHNWIs interested in developing their foothold in Hong Kong. Specifically, the dedicated team provides one-stop support services to assist investors in planning, managing and expanding their family office business in Hong Kong; coordinates the liaison between family offices and relevant regulators, government departments and other stakeholders; and conducts sustained interchange with the industry and organizes various programmes to collate the latest market insights on family office business, with a view to bolstering the development of family offices in Hong Kong. The dedicated team conducted over 50 investment promotion activities in 2022, and will step up publicity and promotion through a global public relations strategy. The dedicated team also plans to roll out diversified and face-to-face interactive events (such as seminars, conferences, media interviews and external visits) in Hong Kong, the Mainland

and overseas this year to promote Hong Kong's competitiveness as a family office hub. The dedicated team, in collaboration with its investment promotion units or its consultants based in the Economic and Trade Offices around the world, will also conduct roundtable forums with the theme of family offices in major cities. Regarding the target in respect of the number of family offices established in Hong Kong, it is announced in the 2022 Policy Address that the target of the dedicated team is to facilitate no less than 200 family offices to set up operations or expand their business in Hong Kong by end 2025. As announced in the 2023-2024 Budget, the Government would provide \$100 million to InvestHK in the coming three years to attract more family offices to Hong Kong.

39. The Bills Committee has suggested that the Administration should consider introducing relevant policy initiatives, such as granting family office members residence status in Hong Kong, providing training for professionals required by family offices and importing the relevant talents, so as to attract more family offices to set up a presence in Hong Kong.

40. The Administration has advised that it would continue to listen to the views of the industry and consider facilitative measures (on residency, talents, etc.) as appropriate for family offices to operate in Hong Kong. In this regard, it is announced in the 2023-2024 Budget that the Government would introduce a new Capital Investment Entrant Scheme. On talent training, the "Pilot Programme to Enhance Talent Training for the Asset and Wealth Management Sector" has been operating since 2016 to nurture more talents for the industry and enhance practitioners' professional capabilities, with over 19 000 attendees of eligible training courses and over 580 tertiary students having completed their internships. In addition, the Hong Kong Monetary Authority ("HKMA") and the Private Wealth Management Association have co-organized the "Pilot Apprenticeship Programme for Private Wealth Management" since 2017 to provide professional training and employment opportunities for university students interested in private wealth management work. Over 300 university students have participated in the Programme thus far.

41. In the light of the new development trends in the financial services industry, the Administration also launched two rounds of the "Financial Practitioners FinTech Training Programme" in 2020 and 2022 respectively, attracting participation by about 4 000 financial practitioners in total. Meanwhile, with the first batch of Fintech professional qualifications for the banking sector rolled out in 2022, HKMA has implemented the "Pilot Scheme on Training Subsidy for FinTech Practitioners" to provide tuition subsidy for practitioners having attained Fintech professional qualifications. HKMA will also conduct a consultancy study this year to continue with the development of Fintech professional qualifications for different financial areas, thereby promoting a comprehensive professional development of Fintech talents.

## **Amendments to the Bill**

42. Members of the Bills Committee have noted and have not raised queries on the proposed amendments. The Legal Adviser to the Bills Committee has sought clarification from the Administration on some drafting matters of the proposed amendments, and has not found any legal and drafting issues after examining the Administration's replies<sup>10</sup>. The Bills Committee will not propose any amendments to the Bill.

## **Resumption of Second Reading debate on the Bill**

43. The Bills Committee has completed scrutiny of the Bill and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 10 May 2023.

## **Consultation with the House Committee**

44. The Bills Committee reported its deliberations to the House Committee on 21 April 2023.

Council Business Division 1 and Public Complaints Office  
Legislative Council Secretariat  
2 May 2023

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<sup>10</sup> The Legal Adviser to the Bills Committee has sought clarification from the Administration on some drafting matters of the proposed amendments. These include: the meaning and use of the new defined term "particular family" under sections 2 and 5 of the proposed new Schedule 16E as added by the proposed amendments. The Administration has explained that an internal definition ("tag-definition"), expressed as "particular family", is tagged to the expression "family" in the above sections to make it clear that if reference is made to "the particular family" in section 2, it is intended to refer to the family mentioned in section 2(2) (i.e. the family in question), and the reference made to "the particular family" in section 5 is intended to refer to the family mentioned in section 5(1)(a). Such tag-definitions would not affect the interpretation of "family" in the above sections; and the expression "family" should be read with the standard definition in section 4 of the proposed new Schedule 16E. In addition, regarding the meaning and use of the term "particular entity" under section 8 of the proposed new Schedule 16E as added by the proposed amendments, and how it compares to "eligible entity", the Administration has explained that the tag-definition of "particular entity" is tagged to the expression "the subject entity is not a specified trust" in section 8(3). In the context of section 8, "particular entity" is to be construed as an entity that is mentioned in section 2(2) (i.e. a family office) or section 5 and that is not a "specified trust" within the meaning of section 8(10). For the expression "eligible entity", it is intended to carry a wider meaning and is defined in section 8(9) to mean any entity that is not a "specified trust" within the meaning of section 8(10).

### **Main provisions of the Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022**

1. Clause 3 amends section 19CA of the Inland Revenue Ordinance (Cap. 112) (“IRO”) to provide for the treatment of unabsorbed losses if the concessionary profits tax rate of the regime is not zero;
2. Clause 4 adds a new Part 6E to IRO to introduce the proposed tax concession regime and empowers the Secretary for Financial Services and the Treasury to amend certain sections of the new Schedule 16E by notice published in the Gazette, having regard to future developments in international tax standards;
3. Clause 5 amends section 80 of IRO to apply the relevant penalties in relation to record keeping requirements;
4. Clause 7 introduces the new Schedule 16E to IRO, which contains the following parts:
  - (a) Part 1 (sections 1 to 8) provides for certain key concepts under the new profits tax concession regime. This part also contains definitions or interpretation provisions for certain expressions used in that Schedule;
  - (b) Parts 2 and 3 (sections 9 to 19) mainly provide for profits tax concession for an entity that is a family-owned investment holding vehicle (“FIHV”) or a family-owned special purpose entity (“FSPE”), and the circumstances under which losses sustained by an FIHV or an FSPE from certain transactions are not available for setting off against their assessable profits;
  - (c) Part 4 (sections 20 to 23) mainly provides for the circumstances under which the assessable profits of an FIHV or FSPE are to be regarded as the assessable profits of a resident person (within the meaning of section 20 of that Schedule) that has a beneficial interest in the FIHV or FSPE;
  - (d) Part 5 (sections 24 and 25) provides for the rate of profits tax for qualifying transactions and incidental transactions of FIHV and FSPE;
  - (e) Part 6 (sections 26 to 29) provides for miscellaneous matters, including anti-avoidance provisions relating to an arrangement or transfer to obtain tax benefits. That Part also contains provisions providing for the

obligations of a responsible person for an FIHV or an eligible single family office (“ESF Office”) to keep or retain information or records regarding the beneficial owners of the FIHV and those of the ESF Office; and

5. Clause 7 also introduces the new Schedules 16F to 16J to IRO, which are supplementary to the new Schedule 16E and contain provisions for ascertaining the extent of beneficial interest that a person or entity has in another person or entity. The new Schedules 16I and 16J also contain provisions for ascertaining the amount of the assessable profits of resident persons under sections 22 and 23 of the new Schedule 16E respectively.

**Bills Committee on Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022**

**Membership list**

**Chairman** Hon Jeffrey LAM Kin-fung, GBS, JP

**Members** Hon Tommy CHEUNG Yu-yan, GBM, GBS, JP  
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(Total: 15 members)

**Clerk** Ms Connie SZETO

**Legal Adviser** Miss Dorothy YUNG

**Bills Committee on Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Bill 2022**

**List of organizations which have attended meetings of the Bills Committee and/or submitted views to the Bills Committee**

1. Deloitte Advisory (Hong Kong) Limited
2. The Hong Kong Institute of Certified Public Accountants
3. KPMG Tax Services Limited
4. The Law Society of Hong Kong
5. PricewaterhouseCoopers Ltd
6. The Taxation Institute of Hong Kong
7. Withers

## Appendix 4

### Comparison between tax concessions proposed under the Bill and relevant tax arrangements of Singapore

	<b>Tax concessions proposed under the Bill</b>	<b>Relevant tax arrangements of Singapore</b> (Note 1)
<b>Advance approval</b>	not required	required
<b>Structure of family-owned investment holding vehicles</b>	no restrictions	no restrictions
<b>Asset under management (“AUM”)</b>	HK\$240 million	S\$50 million (around HK\$280 million) (Note 2)
<b>Local investment requirement</b>	not required	10% AUM or S\$10 million, whichever is the lower
<b>Substantial activities requirement</b>	At least 2 qualified full-time employees and HK\$2 million annual operating expenditure	At least 3 investment professionals; S\$500,000 (around HK\$2.8 million) or S\$1 million (around HK\$5.6 million) annual business spending subject to AUM

**Note 1:** Reference to section 13U of Singapore’s Income Tax Act.

**Note 2:** Separately, under section 13O of Singapore’s Income Tax Act (applicable to resident companies incorporated in Singapore), companies eligible for tax concession must have an AUM of at least S\$10 million (around HK\$56 million) at the time of application, and undertake to increase its AUM to S\$20 million (around HK\$112 million) within two years.

(Source: Annex to LC Paper No. CB(1)111/2023(02))